

§ 661.410 What provisions of WIA and the Wagner-Peyser Act may be waived, and what provisions may not be waived?

(a) The Secretary may waive any of the statutory or regulatory requirements of subtitles B and E of title I of WIA, except for requirements relating to:

- (1) Wage and labor standards;
- (2) Non-displacement protections;
- (3) Worker rights;
- (4) Participation and protection of workers and participants;
- (5) Grievance procedures and judicial review;
- (6) Nondiscrimination;
- (7) Allocation of funds to local areas;
- (8) Eligibility of providers or participants;
- (9) The establishment and functions of local areas and local boards;
- (10) Procedures for review and approval of State and Local plans; and

(b) The Secretary may waive any of the statutory or regulatory requirements of sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g–49i) except for requirements relating to:

- (1) The provision of services to unemployment insurance claimants and veterans; and
- (2) Universal access to the basic labor exchange services without cost to job seekers.

(c) The Secretary does not intend to waive any of the statutory or regulatory provisions essential to the key reform principles embodied in the Workforce Investment Act, described in § 661.400, except in extremely unusual circumstances where the provision can be demonstrated as impeding reform. (WIA sec. 189(i).)

§ 661.420 Under what conditions may a Governor request, and the Secretary approve, a general waiver of statutory or regulatory requirements under WIA section 189(i)(4)?

(a) A Governor may request a general waiver in consultation with appropriate chief elected officials:

- (1) By submitting a waiver plan which may accompany the State's WIA 5-year strategic Plan; or
- (2) After a State's WIA Plan is approved, by directly submitting a waiver plan.

(b) A Governor's waiver request may seek waivers for the entire State or for one or more local areas.

(c) A Governor requesting a general waiver must submit to the Secretary a plan to improve the Statewide workforce investment system that:

(1) Identifies the statutory or regulatory requirements for which a waiver is requested and the goals that the State or local area, as appropriate, intends to achieve as a result of the waiver and how those goals relate to the Strategic Plan goals;

(2) Describes the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers;

(3) Describes the goals of the waiver and the expected programmatic outcomes if the request is granted;

(4) Describes the individuals affected by the waiver; and

(5) Describes the processes used to:

(i) Monitor the progress in implementing the waiver;

(ii) Provide notice to any Local Board affected by the waiver;

(iii) Provide any Local Board affected by the waiver an opportunity to comment on the request; and

(iv) Ensure meaningful public comment, including comment by business and organized labor, on the waiver.

(d) The Secretary issues a decision on a waiver request within 90 days after the receipt of the original waiver request.

(e) The Secretary will approve a waiver request if and only to the extent that:

(1) The Secretary determines that the requirements for which a waiver is requested impede the ability of either the State or local area to implement the State's plan to improve the Statewide workforce investment system;

(2) The Secretary determines that the waiver plan meets all of the requirements of WIA section 189(i)(4) and §§ 661.400 through 661.420; and

(3) The State has executed a Memorandum of Understanding with the Secretary requiring the State to meet, or ensure that the local area meets, agreed-upon outcomes and to implement other appropriate measures to ensure accountability.